

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

IN RE: Carol A. Easterday

CASE NO.: 18-10502-reg
CHAPTER 7

Debtor

**MOTION FOR RELIEF FROM AUTOMATIC STAY AND ABANDONMENT OF
REAL PROPERTY**

The Bank of New York Mellon FKA The Bank of New York, as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2007-11, (“Movant”) hereby moves this Court for abandonment, pursuant to 11 U.S.C. §554 and relief from the automatic stay, pursuant to 11 U.S.C. §362 with respect to certain real property of the Debtor having an address of 4620 Anglers Lane, Fort Wayne, IN 46808 (the “Property”).

In further support of this Motion, Movant respectfully states:

1. A Petition under Chapter 7 of the United States Bankruptcy Code was filed with respect to the Debtor on March 29, 2018.
2. The Debtor has executed and delivered or is otherwise obligated with respect to that certain promissory note in the original principal amount of \$88,800.00 (the "Note"). A copy of the Note is attached hereto as Exhibit "A". Movant is an entity entitled to enforce the Note.
3. Pursuant to that certain Mortgage (the "Mortgage"), all obligations (collectively, the "Obligations") of the Debtor under and with respect to the Note and the Mortgage are secured by the Property. A copy of the Mortgage is attached here to as Exhibit "B".
4. All rights and remedies under the Mortgage have been assigned to the Movant pursuant to that certain assignment(s) of mortgage, a copy of which is attached hereto as Exhibit "C".

5. The legal description of the Property is:

Lot 20 in Morgan Creek, Section I, as Recorded in Plat Cabinet D, Page 152 and Document Number 201089111, recorded February 9, 2007 as Instrument No. 207007998, in the Office of the Recorder of Allen County, Indiana.

6. As of April 10, 2018, the outstanding principal of the Note was \$102,528.45. As of April 10, 2018, the outstanding amount of the obligations under the Note and Mortgage less any partial payments or suspense balance is \$110,736.88.

7. Specialized Loan Servicing LLC services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Creditor or Creditor's successor or assignee. Creditor, directly or through an agent, has possession of the Note. The Note is either made payable to Creditor or has been duly endorsed. Creditor is the original mortgagee or beneficiary or the assignee of the Mortgage/Deed of Trust

8. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, Movant has also incurred legal fees and expenses in connection with seeking the relief requested in this Motion. Movant reserves all rights to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, of the Bankruptcy Code and otherwise applicable law.

9. The following chart sets forth the number and amount of payments due pursuant to the terms of the Note that have been missed by the Debtor as of April 10, 2018:

Number of Missed Payments	From	To	Monthly Payment Amount	Total Missed Payments
1	06/01/2017	06/01/2017	\$574.56	\$574.56
6	07/01/2017	12/01/2017	\$571.89	\$6,862.68
4	01/01/2018	04/01/2018	\$578.16	\$2,312.64
Late Charges				\$175.28

Less partial payments (suspense balance): \$0.00

Total: \$9,925.13

10. The Estimated market value of the Property is \$117,000.00. The basis for such valuation is a Broker Price Opinion. A copy of the Broker Price Opinion is attached hereto as Exhibit "D".

11. Because of the total obligations due to Movant under the Note and Mortgage are at least \$110,736.88, as detailed above, the total outstanding principal of the Note is \$102,528.45, as detailed above, and is/are in excess of the value of the property, there is no equity in the property for benefit of Movants.

12. Upon information and belief, the encumbrances on the Property listed in the Schedules or otherwise known, including but not limited to the encumbrances granted to Movant, listed in order of priority are: (i) Movant (\$110,736.88); (ii) Franklin Credit (\$14,683.53).

13. Cause exists for relief from the automatic stay and abandonment of the real estate for the following reasons:

- (a) Movant's interest in the Property is not adequately protected.
- (b) Pursuant to 11 U.S.C. §362(d)(2)(A), Debtor(s) have no equity in the Property; and pursuant to §362(d)(2)(B), the Property is not necessary for an effective reorganization.

14. The Movant hereby waives the right under 11 U.S.C. §362(e) to a hearing on this motion within thirty (30) days of the date it is filed.)

WHEREFORE, the Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay for all purposes allowed by the Note, the Mortgage, and applicable law, including but not limited to allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.
2. That the 14-day stay described by Bankruptcy Rule 4001(A)(3) be waived.
3. That the Property be deemed abandoned by the Trustee as an asset of the bankruptcy estate effective upon entry of the Court's order.
4. For such other relief as the Court deems proper.

MARINOSCI LAW GROUP, P.C.

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CERTIFICATE OF SERVICE

I certify that on the 17th day of April, 2018, service of a true and complete copy of the Motion for Relief from Automatic Stay and Abandonment of Property was served upon each party or attorney of record herein by the Court's Electronic Case Filing System or by depositing same in the United States Mail in envelopes properly addressed to each of them and with sufficient first class postage affixed.

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All parties listed on the attached Matrix

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